

## Smart Buildings Policy Project

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July 18, 2000

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OFFICE OF THE CHAIRMAN

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Promotion of Competitive Networks in Local Telecommunications  
Markets, WT Docket No. 99-217 and CC Docket No. 96-98

Dear Chairman Kennard:

In a recent letter to you, the Real Access Alliance (RAA) expressed its commitment to developing a model set of building access agreements between property owners and telecommunications service providers, as well as a model set of "best practices" aimed at further facilitating building owners' negotiations with telecommunications service providers. As part of that effort, the RAA commits to soliciting "as much input from representatives of the telecommunications industry as possible." On behalf of the Smart Buildings Policy Project (SBPP) – a broadbased coalition of telecommunications and Internet providers, consumer representatives, and telecommunications equipment manufacturers – I am writing to alert you to the fundamental flaws of this proposal and to the continued critical need for the Commission to address the *Competitive Networks* proceeding at its September agenda meeting.

Although the SBPP welcomes the opportunity to provide input, the RAA's proposal on model terms and conditions misses the core issue of ensuring that consumers living or working in multi-tenant environments can access their telecommunications provider of choice. Model terms and conditions are meaningless if access can be denied entirely or delayed for months or years. These model terms and conditions are unenforceable without a Commission order. More significantly, the establishment of model terms and conditions still enables the "problem" building owners to deny choice for their tenants altogether. Therefore, the RAA's goal to establish model terms and conditions does not eliminate or alter the Commission's pivotal role in this matter. Specifically, the Commission must adopt an affirmative requirement that all multi-tenant building owners provide telecommunications carriers with nondiscriminatory access to their buildings within a reasonable period of time in order to serve the tenants

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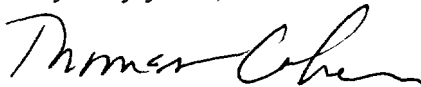
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therein. Once this requirement is firmly established, all building owners — even those that otherwise would have resisted nondiscriminatory access entirely — will have an incentive to participate in the development of model terms and conditions of access and to negotiate them directly into their access agreements.

The willingness of RAA to develop model terms and conditions supports the position that SBPP members have maintained throughout this rulemaking: notwithstanding the variations in the types of buildings to which carriers have obtained access, the access agreements that are negotiated with building owners tend not to vary substantially. That is, they all tend to contain similar elements that should be included in a set of presumed reasonable terms and conditions for building access agreements. By way of example, at least one telecommunications carrier has submitted to the Commission redacted copies of executed and mutually satisfactory access agreements indicating that the model contract issues are well understood, not particularly complicated, and not especially numerous.

It is troubling that the RAA's cooperative overture occurs at this very late stage in the rulemaking process. As the Commission is aware, the Notice of Proposed Rulemaking in this docket was released more than twelve months ago. The considerable time period that elapsed before the real estate industry conceded even that uniform rules are attainable is disturbing. Indeed, RAA's proposal to negotiate *at this late date* a mutually acceptable list of terms and conditions suggests that further delay of the Commission's processes — not compromise — is the real estate industry's ultimate goal. The pattern is familiar to the SBPP telecommunications provider members. A twelve month-long wait to commence negotiations — on topics that nevertheless fail to address the core matters at issue — is indicative of the delays that building owners impose on carriers in the commercial marketplace. Further delay in issuing an order leaves consumers without the right to deal directly with their carrier of choice for much too long. The SBPP strongly and respectfully urges the Commission to address the *Competitive Networks* item in its September agenda meeting rather than permitting further delay.

Very truly yours,



Thomas Cohen

cc: The Honorable Susan Ness  
The Honorable Michael Powell  
The Honorable Harold Furchtgott-Roth  
The Honorable Gloria Tristani  
Kathryn Brown, Chief of Staff to Chairman Kennard  
Thomas Sugrue, Chief of the Wireless Telecommunications Bureau

